

# United States Department of Agriculture

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the Food and Drugs Act]

25851—25950

[Approved by the Acting Secretary of Agriculture, Washington, D. C., November 28, 1936]

**25851. Misbranding of Krispy Krumbs. U. S. v. The Better Wheat Foods Co., a corporation, and Denton Rogers. Plea of guilty by defendant Rogers. Fine, \$27. (F. & D. no. 32225. Sample no. 50923-A.)**

Unwarranted therapeutic and curative claims were made for this article; its label bore incorrect statements regarding its ingredients, and the quantity of the contents of the package in which it was sold was not plainly stated thereon.

On December 3, 1934, the United States attorney for the District of Utah, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Better Wheat Foods Co., a corporation, and Denton Rogers, Logan, Utah, alleging shipment by it and him in violation of the Food and Drugs Act, as amended, on or about October 17, 1933, from Logan, Utah, to Denver, Colo., of quantities of Krispy Krumbs which were misbranded.

Analysis of the article showed that it consisted essentially of wheat containing a large amount of bran, and that little, if any, flaxseed was present.

Misbranding of the article was charged under the allegations that its package bore and that a circular enclosed therein contained statements regarding the therapeutic and curative effects of the article; that the said statements falsely and fraudulently represented that the article was effective, among other things, to furnish energy to make muscles, tissues, blood, bones and teeth, and to build good, sturdy bodies for young and old; effective to produce marvelous health—stomach disorders, auto-intoxication, nervous ailments, ulcers of the stomach, kidney trouble, bad complexion, liver trouble, excess acidity, rheumatism, and diabetes; effective to clear the blood stream of poisons and to neutralize acidity; effective to promote proper elimination and to assist the liver and kidneys in assuming their normal functions; effective as a treatment for any chronic ailments brought on by faulty elimination; and effective as a treatment for maladies of years' standing.

Misbranding of the article was further charged (a) under the allegations that the packages bore the statement "100% Whole Wheat", and that there appeared on a circular enclosed in the package the statements, "It is made more laxative by the addition of an especially prepared flax seed" and "A Complete Meal", that the article was not 100 percent whole wheat, that it contained little, if any, flaxseed, that it did not contain the essentials of a complete meal; that the aforesaid statements were false and misleading; (b) under the allegation that the article was labeled as aforesaid so as to deceive and mislead the purchaser; (c) under the allegation that the article was in package form and that the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On December 8, 1934, a plea of guilty by the defendant Rogers having been entered, a fine of \$27 was imposed.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25852. Misbranding of crackers. U. S. v. Griggs, Cooper & Co. Plea of nolo contendere. Fine, \$20. (F. & D. no. 33775. Sample no. 66698-A.)**

This case was based on an interstate shipment of crackers the packages of which contained less than the quantity represented thereon.

On January 27, 1936, the United States attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Griggs, Cooper, & Co., a corporation, trading at St. Paul, Minn., charging shipment by said corporation in violation of the Food and Drugs Act, on or about December 23, 1933, from the State of Minnesota into the State of Colorado of a quantity of crackers that were misbranded. The article was labeled in part: "Minuet Wafers Sanitary Food Manufacturing Co. Saint Paul, Minnesota Minuet Wafers Tasty—Salty—Cracker Net Weight One Pound."

The article was alleged to be misbranded in that the statement, "Net Weight One Pound", borne on the label, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since it represented that the packages each contained 1 pound of the article; whereas, in fact, the packages contained less than 1 pound of the article. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On April 4, 1936, a plea of nolo contendere was entered on behalf of the defendant corporation, and the court imposed a fine of \$20.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25853. Alleged misbranding of canned shelled pecans. U. S. v. R. E. Funsten Co. Tried to the court. Judgment of not guilty. (F. & D. no. 33812. Sample nos. 61641-A, 66761-A.)**

This case was based on interstate shipments of canned shelled pecans, the contents of the cans of which were alleged to be short in weight.

On November 15, 1934, the United States attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the R. E. Funsten Co., a corporation, St. Louis, Mo., charging shipment by said corporation in violation of the Food and Drugs Act, on or about October 5, 1933, from the State of Missouri into the State of Wyoming, and on or about November 27, 1933, from the State of Missouri into the State of Montana, of quantities of shelled pecans that were misbranded. The article, contained in cans, was labeled: "Funsten's Shelled Pecans Select Halves Vacuum Packed Always Fresh Net Weight 8 Oz. R. E. Funsten Company, St. Louis, Mo., U. S. A."

The article was alleged to be misbranded in that the statement "Net Weight 8 Oz.", borne on the label, was false and misleading, and in that by reason of said statement the article was labeled so as to deceive and mislead the purchaser, since the statement represented that each of the cans contained 8 ounces of the article; whereas, in fact, each of nearly all of the cans contained less than 8 ounces of the article. The article was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity of the contents of each of nearly all of the packages was less than 8 ounces, the amount stated.

On April 3, 1936, a jury having been waived, defendant was tried to the court and adjudged not guilty.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25854. Adulteration of canned tuna and canned mackerel. U. S. v. French Sardine Co., a corporation. Plea of guilty. Fine, \$500. (F. & D. no. 33907. Sample nos. 686-B, 24115-B, 47947-B.)**

This case involved a shipment of canned tuna and a delivery for shipment of canned mackerel which were in part decomposed.

On July 29, 1935, the United States attorney for the Southern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the French Sardine Co., a corporation, Terminal Island, Calif., alleging that on or about May 5, 1934, the defendant company shipped from the State of California into the State of Washington a quantity of canned tuna; that on August 12, 1934, the defendant company delivered for shipment from the State of California into the State of Pennsylvania a quantity of canned mackerel; and that the articles were adulterated in violation of the Food and Drugs Act. The articles were labeled in part, respectively: "Belle Isle \* \* \* F. S. Co. \* \* \* Fancy Solid Pack Tuna Net Weight 7 Oz.", and "Eatwell Brand, California Mackerel \* \* \* Packed By \* \* \* French Sardine Co. Inc. Terminal Island, California."